



Public Facilities and Improvements Guidelines

2019 CDBG-DR

Oklahoma Department of Commerce

Effective: November 11, 2022



OKLAHOMA
Commerce

Table of Contents

Table of Contents.....	2
Introduction.....	3
Accessibility Statement from the Oklahoma Department of Commerce	3
Disaster Recovery Website	3
Staff Contacts for Questions, Comments, or Assistance	4
Background to the 2019 CDBG-DR Grant Program	4
Purpose.....	6
Levees	7
Application and Administration	7
Eligible Activities	8
Environmental Requirements for CDBG funding	8
Uniform Relocation Act (URA).....	8
Recordkeeping Requirements	9
Appeals Process.....	12
Public Right of Way and Easements.....	13
Additional Requirements	13
Appendix.....	15
Version History	15

Introduction

Accessibility Statement from the Oklahoma Department of Commerce

The Oklahoma Department of Commerce is committed to making its electronic and information technologies accessible to individuals with disabilities in accordance with both Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as well as Oklahoma's Oklahoma Electronic and Information Technology Accessibility law, or EITA.

Oklahoma works to make its government more transparent, available, and useful. Making State technology resources accessible to people with disabilities helps the State to meet its goal of creating a more transparent government. Complete information can be found at <https://www.ok.gov/accessibility/>.

Commerce posts many documents to our websites in Adobe PDF format to provide enhanced document features and preserve design. The ability to open PDF documents is built into most popular web browsers and Adobe Reader is provided for free by Adobe at adobe.com. Commerce posts PDFs in text format so that documents can be read by screen readers.

Commerce posts some documents to our websites in Microsoft Office formats including Word, Excel, and PowerPoint format. Microsoft provides viewer applications for these formats for free on their website at microsoft.com.

Disaster Recovery Website



ODOC/CD maintains a website specifically for the 2019 CDBG-DR program. Please visit: <https://www.okcommerce.gov/reporting-compliance/cdbg-disaster-recovery-2019/> and check back often because the website is frequently updated.

- Notifications for Public Hearings will be published in English and Spanish.
- Read the 2019 CDBG-DR Action Plan, Citizen Participation Plan, Quarterly Reporting, and more.
- The website can easily be translated by clicking the "Translate This Page" button at the top of the screen.

If you need assistance with the website or encounter any technical difficulties with the website, please contact Susan Riley (susan.riley@okcommerce.gov).

Staff Contacts for Questions, Comments, or Assistance

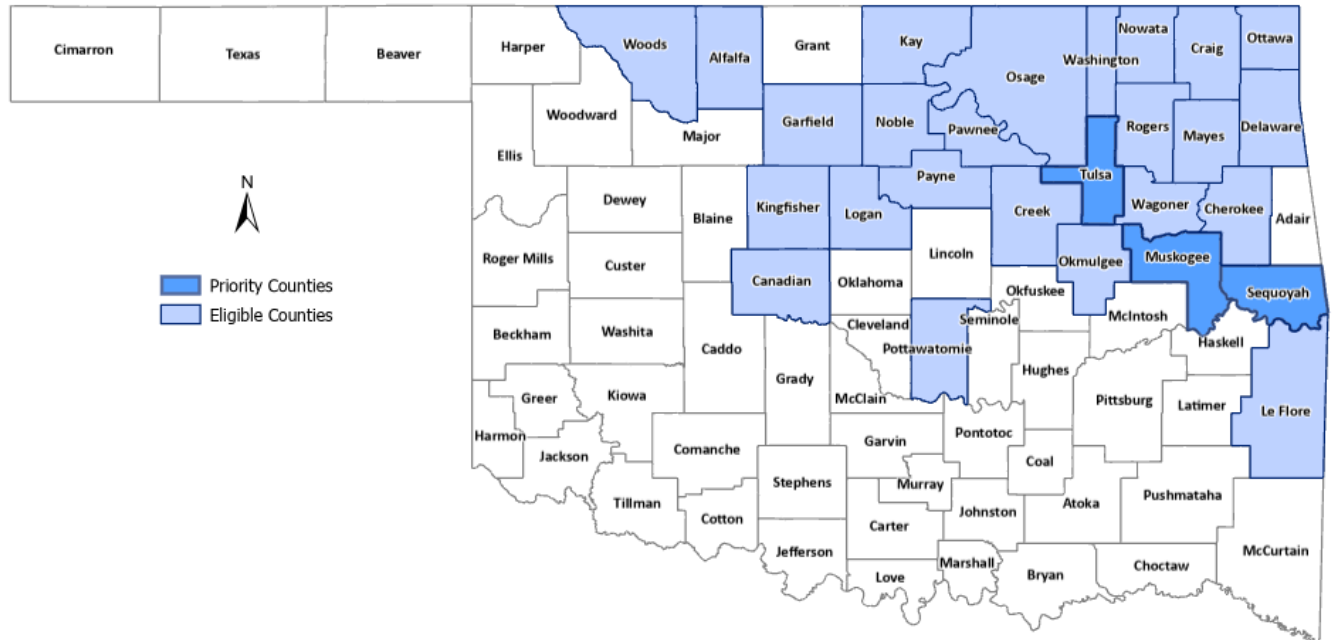
Please contact either Jade Shain or Rebecca LaVictoire if you have any questions, comments, or if in need of assistance for disability accommodations, translation, or interpretation services.

<p>Jade Shain Programs Planner</p> <p>Community Development (CDBG-DR) Oklahoma Department of Commerce jade.shain@okcommerce.gov</p> 	<p>Rebecca LaVictoire Programs Manager</p> <p>Community Development Oklahoma Department of Commerce Rebecca.LaVictoire@okcommerce.gov</p> 
---	--

Background to the 2019 CDBG-DR Grant Program

Oklahoma experienced severe storms from May 7, 2019, through June 9, 2019. These storms brought straight-line winds, tornadoes, and significant flooding to several communities throughout the state.

Due to the extensive damage to housing and infrastructure from these storm events, an allocation notice was issued by the United States Department of Housing and Urban Development (HUD) in Federal Register Notice Vol. 85, No. 17, Page 4681 Public Law 116-20. This Federal Register Notice states that Oklahoma is eligible to receive an allocation of \$36,353,000 in disaster recovery funds for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et. Seq.) to address long-term recovery needs, particularly in housing recovery that focuses on low and moderate-income beneficiaries. Per the Federal Register Notice, the only areas in which the funds can be expended are Presidentially Declared Disaster areas because of the incident period (May 7, 2019, to June 9, 2019) as defined by the applicable Disaster Declaration 4438. Within these eligible areas, the Federal Register Notice requires that a minimum of \$29,082,000, or 80% of the total State's \$36,353,000 CDBG-DR funding allocation, must be expended on CDBG-eligible disaster-related activities in Muskogee, Tulsa, and Sequoyah counties (see map below).



The remaining funding (20% of the total allocation) will be available for CDBG eligible disaster-related activities in eligible counties as defined by Disaster Declaration 4438. Applicants from Alfalfa, Canadian, Cherokee, Craig, Creek, Delaware, Garfield, Kay, Kingfisher, Le Flore, Logan, Mayes, Noble, Nowata, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Rogers, Wagoner, Washington, and Woods are also eligible to submit applications related to the disaster.

Purpose

CDBG-DR-funded activities in this category include the repair, replacement, or relocation of damaged public facilities or public improvements. Infrastructure activities typically meet the National Objective of Low-to-Moderate Income (LMI) Area Benefit. The Oklahoma Department of Commerce (ODOC) will only accept projects under the Urgent Need National Objective if significant documentation of such need is provided at the time of application. If applicable, infrastructure projects located in a floodplain must meet the requirements of 24CFR Part 55 “Floodplain Management and Protection of Wetlands.”

As per 24 CFR Part 570.483, subrecipients that receive an award from the state, may use either HUD-provided data comparing census data with appropriate LMI levels or survey data that is methodologically sound. **An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.**

The Census divisions that best fall within the service area should be used for defining the service area for purposes of reporting on the activity and for calculating the percentage of LMI income persons residing in that area. Subrecipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct a current survey of the residents of the area to determine the percent of such persons that are LMI. Subrecipients should consider the nature of the activity, location, and capacity to serve areas, and limitations to public access when surveying residents. The process to conduct an income survey is further outlined in the CDBG-DR Application Handbook.

All CDBG-DR disaster recovery activities, including Infrastructure activities, must clearly address an impact of the disaster for which funding was appropriated. Given the standard CDBG requirements, this means each activity must:

- (1) Be CDBG-DR eligible as defined by the 2019 CDBG-DR Action Plan
- (2) Meet a national objective (primarily LMI benefit); and
- (3) Address a direct or indirect impact from the disaster in a presidentially declared county.

Subgrantees will be monitored for compliance per ODOC's Subgrantee Monitoring Plan. Technical Assistance will be provided upon request or at

ODOC's determination.

Dams and Levees

CDBG-DR funds can be used for the rehabilitation of levees on both public and private property. Subrecipients may use CDBG-DR funds to make improvements to flood control systems, including those funded or maintained by the U.S. Army Corps of Engineers (USACE). Mitigation features may be added onto a project that addresses recovery from the effects of the covered disaster. For example, if a levee failed or had to be extensively sandbagged above its existing level or was overtopped but held, one might be eligible to raise it with CDBG-DR funds, provided the project meets the LMI threshold, or in certain cases, the Urgent Need National Objective.

When applicable, Federal policy generally requires subrecipients who use CDBG-DR funds for levees and dams to:

1. Register and maintain entries regarding such structures with the USACE National Levee Database or National Inventory of Dams.
2. Ensure that the structure is admitted in the USACE PL 84-99 Program (Levee Rehabilitation and Improvement Program).
3. Ensure the structure is accredited under the FEMA National Flood Insurance Program.
4. Upload into the DRGR the exact location of the structure and the area served and protected by the structure.
5. Maintain file documentation demonstrating that the grantee has conducted a risk assessment prior to funding the flood control structure and that the investment includes risk reduction measures.
6. There is a USACE limit of \$250,000. There are also prohibitions on supplanting USACE funds (84 FR 5865) and on enlarging footprints (83 FR 5866).

Application and Administration

For the CDBG-DR Infrastructure, eligible applicants are Units of General Local Government (UGLG), which include incorporated towns, cities, counties, and certain non-profits. Eligible applicants can also be tribal nations, other State agencies, and Councils of Governments.

Applicants must have proposals that tie-back to the disaster period (May 7, 2019, through June 9, 2019) and geographic area described in the Presidential Declared Disaster (DR-4438).

At the time of application, projects should be identified by the subrecipient that would qualify for the program. A budget is determined based on need of the subrecipient applying. If awarded, the subrecipient contracts with the Oklahoma Department of Commerce (ODOC) to administer and oversee their jurisdiction in which the program applies. The subrecipient will administer and oversee the project's completion with continued oversight and technical assistance from the Oklahoma Department of Commerce.

Eligible Activities

Activities should add to the long-term recovery of an affected area and create a safer environment for citizens. Activities must have a clear tieback to the DR-4438 FEMA declared disaster. Activities can include, but are not limited to:

- Flood control and drainage repair and improvements, including the construction or rehabilitation of storm water management system
- Restoration of infrastructure such as bridges, water and sewer facilities, streets, etc.
- The addition of infrastructure to support Low to Moderate Income housing

Environmental Requirements for CDBG funding

It is required that all approved subrecipients for the Public Facilities and Improvements Program follow all CDBG environmental regulations prior to receiving a release of funds. Additional information on CDBG environmental regulations can be found in the 24 CFR Part 58. For more information, refer to the Policies and Procedures (PnP) Manual supplied by the Oklahoma Department of Commerce.

Uniform Relocation Act (URA)

The following requirements, as outlined by the URA should be met if homeowners and/or tenants are displaced from infrastructure activities:

1. Homeowners/Tenants must be provided relocation advisory services.
2. Homeowners/Tenants must be provided a minimum of 90 days written notice to vacate the property for the property (note: DSS replacement

housing is required or else the homeowner and/or tenant are not required to move).

3. Homeowners/Tenants must be reimbursed for moving expenses.
4. Homeowners/Tenants must be provided payments for the added cost of renting or purchasing comparable replacement housing.

For more information, please review ODOC's Anti-Displacement and Relocation Plan on the CDBG-DR website. ODOC's Voluntary Buyout Program Guidelines also provide substantial detail about the URA and Section 104(d) requirements, and subrecipients of the Public Facilities and Improvements Program are encouraged to read that documentation.

Recordkeeping Requirements

24 CFR §91.115(g) Citizens, public agencies and other interested parties will be provided access to information and records relating to the 2019 CDBG-DR Program. In accordance with 24 CFR §570.490, the public will be provided reasonable access to housing assistance records, subject to state and local laws regarding privacy and obligations of confidentiality. The State is subject to the Oklahoma Open Records Act (51 O.S. § 24A). A formal Open Records Request for inquiries relating to public record access will be required in accordance with the Oklahoma Open Records Act (51 O.S. § 24A).

24 CFR §570.490 Recordkeeping requirements:

- (a) The State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds under §570.493. The content of records maintained by the State shall be as jointly agreed upon by HUD and the States and sufficient to enable HUD to make the determinations described at §570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH, as described in 24 CFR part 5, subpart A (§5.168). The records shall also permit an audit of the States in accordance with 2 CFR 200, subpart F.
- (b) State Records: The state shall keep records to document its funding decisions reached under the method of distribution described in 24 CFR 91.320(j)(1), including all the criteria used to select applications from local governments for funding and the relative importance of the criteria (if applicable), regardless of the organizational level at which final funding decisions are

made, so that they can be reviewed by HUD, the Inspector General, the Government Accountability Office, and citizens pursuant to the requirements of §570.490(c). To request records, please contact Jade Shain at the Oklahoma Department of Commerce by sending an e-mail to jade.shain@okcommerce.gov.

- (c) Disaster Recovery Grant Reporting (DRGR): The state shall make entries into DRGR in a form prescribed by HUD to accurately capture the state's accomplishment and funding data, including program income, for each program year. DRGR data will be entered on a quarterly basis. 83 FR 5853 requires each grantee to submit a QPR no later than 30 days following the end of each calendar quarter until all funds have been expended and all accomplishments have been reported.
- (d) Unit of general local government's record: The State shall establish recordkeeping requirements for units of general local government receiving CDBG funds that are sufficient to facilitate reviews and audits of such units of general local government under §570.492 and §570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH as described in 24 CFR part 5, subpart A (§5.168).
- (e) Access to records: (1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt, and use of CDBG funds and necessary to facilitate such reviews and audits.
- (f) (The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.
- (g) Record retention. Records of the State and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in §570.487 and §570.488.

The subgrantee is required to keep records for five years after grant closeout.

Examples of records the subgrantee must keep (not an exhaustive list):

Category	Types of Files
Administrative Records	<ul style="list-style-type: none"> ○ Overall administration files and records of your CDBG activities. ○ Personnel files ○ Property management files <p>General organizational management files:</p> <ul style="list-style-type: none"> ○ Articles of incorporation ○ Bylaws ○ Tax status ○ Board minutes ○ Contracts ○ Other agreements (memorandum of understanding) <p>Program funding award files:</p> <ul style="list-style-type: none"> ○ Your application and all related records requesting CDBG funds ○ Program policies and guidelines ○ All grantee correspondence ○ Your subrecipient agreement ○ Compliance reports
Financial Records	<ul style="list-style-type: none"> ○ Chart of accounts ○ Accounting procedures manual ○ Accounting journals and ledgers ○ Source documentation (purchase orders, invoices, bank records, etc.) ○ Procurement files ○ Bank account records ○ Financial reports ○ Audit files
Project or Case Files	<ul style="list-style-type: none"> ○ Project activities ○ Regulatory compliance (e.g., cross-cutting requirements, etc.) ○ Individual beneficiaries ○ Property owners and/or properties

All records shall be accurate, complete, and orderly.

Appeals Process

If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.

All people impacted by the Infrastructure Program have the right to appeal decisions made by ODOC under 49 CFR 24.10.

1. ODOC will review all appeals in less than 21 business days.
2. There is a time limit for initiating an appeal. The time limit shall be 61 days after the applicant receives written notification of the ODOC's determination on the tenants' claim.
3. Applicants have a right to legal representation at their own expense.
4. ODOC shall permit an applicant to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by ODOC. ODOC may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.
5. In deciding an appeal, ODOC shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.
6. Promptly after receipt of all information submitted by a person in support of an appeal, ODOC shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the applicant a copy. If the full relief requested is not granted, ODOC shall advise the person of his or her right to seek judicial review of the Agency decision.
7. The ODOC official conducting the review of the appeal shall be Executive Director of the Oklahoma Department of Commerce or his or her authorized designee. However, the official shall not have been directly involved in the action being appealed.

Public Right of Way and Easements

Upon notification of permission from ODOC, the sub-recipient may proceed with efforts to acquire any real property, including easements and rights-of-way, required for the project. CDBG-DR federal funds, administered by ODOC and disbursed to sub-recipients and/or direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974 as waived by 81 FR 83254) and (82 FR 5591). The applicable federal regulations are located at 49 CFR Part 24 (URA), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if certain actions have been taken ahead of time: 1) the option agreement must be subject to a determination by the sub-recipient on the desirability of the property for the project; 2) an environmental review must have been completed; and, 3) the cost of the option must be a nominal portion of the purchase price. Prior to advertising for bids, the sub-recipient must have obtained all lands, rights-of-way, and easements necessary for carrying out the project.

Additional Requirements

Subgrantees are required to review and adhere to the following requirements as described in the 2019 CDBG-DR Policies and Procedures manual on the website: <https://www.okcommerce.gov/reporting-compliance/cdbq-disaster-recovery-2019-2/>

- Requirement No. 402 – Property Acquisition
- Requirement No. 403 – Environmental Review
- Requirement No. 404 – Civil Rights
- Requirement No. 405 – Procurement
- Requirement No. 406 – Financial Management
- Requirement No. 408 – Labor Standards

Subgrantees are required to review:

- a. The 2019 CDBG-DR Policies and Procedures Manual. This is available on the State's disaster recovery website.

- b. The 2019 Subgrantee Monitoring Plan. A copy of this document is provided to subgrantees. Please send a request to Jade Shain by e-mail at jade.shain@okcommerce.gov.
- c. The 2019 CDBG-DR Citizen Participation Plan. This is available on the State's disaster recovery website.
- d. The 2019 CDBG-DR Language Access Plan. This is available on the State's disaster recovery website.

Appendix

Version History

Version Number	Date	Notes	Page(s)
1	09-01-2021	Submitted to HUD.	Cover – 9
2	12-28-2021 JS	<p>Significant changes were made to this document per the requirements of the Oklahoma Department of Commerce's Style Guide. For example, Headings and Subheadings are now using Arial instead of Times New Roman. The typeface used in the body text is now Google's Montserrat instead of Times New Roman. All colors in the Headings and Subheadings were chosen from the Style Guide. The following Colors are used in this document.</p> <ul style="list-style-type: none">a. Heading 1 = HEX #464646b. Heading 2 = HEX #0066A6c. Heading 3 = HEX #000000d. Body/Normal = HEX #000000	Entire document

3	08-20-2021 JS	TA review comments	Entire document
4	08-10-2022 JS	Removed justified text; align left	Entire document
5	10-11-2022 JS	Added URA language; removed reference to Phase 1 and Phase 2 Infrastructure Applications since Action Plan Substantial Amendment #2 removed those distinctions.	New section
6	11-01-2022 JS RL	Added Recordkeeping and Appeal requirements	New section
7	11-11-2022 JS	Addressed additional HUD recommendations for record keeping	